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## ABSTRACT

The paper provides a framework for a nonbiased placement system for students with suspected handicapping conditions. The suggested approach is designed to help school districts determine whether the appraisal system is contributing to the disproportionate placement of minority group students in special education classes. Nineteen steps in the appraisal process are identified and briefly described: initiation of referral; collection of anecdotal observations; notification of parents or guardians; implementation of alternative classroom strategies; building level (screening) referral; regular education alternatives; district level referral; multidisciplinary assessment team preparation; multidisciplinary assessment of handicap; multidisciplinary assessment for educational implications; multidisciplinary assessment for educational programming; preparation of an integrated report; scheduling of the IEP meeting and furnishing of the assessment report to the parents; special education eligibility decision; ethnic and cultural considerations; production and approval of the IEP; placement in the least restrictive environment; provision of instructional and/or related services; and evaluation of student progress. The importance of a districtwide tracking system to monitor the appraisal process is stressed. (CI)

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NINETEEN STEPS FOR ASSURING NONBIASED PLACEMENT  
OF STUDENTS IN SPECIAL EDUCATION

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## INTRODUCTION

Recent litigation has consistently made the point that tests used to place students in classes for the mentally retarded, as well as for several other classifications, have not been validated for that purpose (Larry P. v. Riles, Mattie T. v. Holladay).

"Held, using standardized intelligence tests that are racially and culturally biased, have a discriminatory impact upon black children, and have not been validated for placement purposes, and the general use of placement mechanisms, that taken together, have not been validated and result in a large overrepresentation of black children in special EMR classes, violates Title VI, section 504 and P.L. 94-142, and California and U.S. Constitutional guarantees of equal protection of the law." (Larry P. v. Riles in Education for the Handicapped Law Report, 1979, 3, 551:296)

Notice that it is not just tests that are declared to have a discriminatory impact, but also placement mechanisms, that, taken together, have not been validated and result in a large overrepresentation of black children in special EMR classes. While the Larry P. case dealt only with the EMR CLASSIFICATION, THE Mattie T. case added the Learning Disabilities (LD) classification to the alleged areas of discrimination. Some reasons why these two classifications are singled out are addressed by Tucker (1980). The offending classifications are based largely on widely differing definitions and varying subjective judgments as to what constitutes a "real" handicapped student within those classifications. Disproportionate placement has not been noted nearly so often in the other classifications of handicapped students (with the exception of Emotionally Disturbed) because the identification of the remaining types of handicapping conditions are based largely on operationally defined physical symptoms. For additional discussion of this subject see Heber (1961), Hobbs (1975), Lambert, Wilcox, and Gleason (1974), and Mercer (1973).

While the assertion is often made that the tests are at fault, the literature, as well as experience, has not provided a clear statement to that effect (Reschly; 1980; Tucker, 1977). It appears that test data are indeed used in support of biased decisions to place students in classes for the mentally retarded and the learning disabled, but it is also clear that such decisions are often made without regard to the data (Morrow, Powell, & Ely, 1976; Tucker, 1977).

It seems clear that biased placement often has its roots at the point of referral, long before any test data are generated; in fact, test data may simply be collected to reinforce a covert decision that has already been made (Audette, Boston, Linde, Pellow, and Tucker, 1979; Mercer, 1973).

A mountain of material has been written on the techniques, instruments, and considerations that should be brought to bear when performing non-biased assessments (Bogatz, 1976; Duffey, Salvia, Tucker, and Ysseldyke, in press; Reschly, 1979).

Another mass of information, most of which has not appeared in the literature, exists in the form of local and state policies and procedures that represent a state-of-the-art in practice rather than in the literature. It is this state of actual practice that has served as the primary basis for this paper. The author has been involved with the special education policies and procedures in more than half of the states and dependent territories of the United States. The procedures vary widely in quality, but many exemplary practices have proven themselves in use.

Drawing upon the "best practices" observed, this paper presents a method that school districts can use to determine whether or not biased placement might be occurring within the appraisal process at large, leading to discrimination against minority group students by supporting the placement of such students in special education classes in disproportionately high numbers.

Of course, the only reason for wanting to determine whether or not biased placement procedures are in effect is to bring them to view in such a clear manner that they can be corrected, thus establishing a non-biased system of placement and maintaining such a system by careful self study on the part of the local district. It is to this end that the "Nineteen Steps" are presented. First, several definitions are in order.

### Definitions

The three terms appraisal, assessment, and evaluation are often used interchangeably; such use inhibits communication regarding the procedures that can assist in reducing bias in the special education placement of handicapped students. For the purposes of this paper, the three terms are defined as follows:

Appraisal: The overall process, beginning with the identification of a student with possible special education needs and continuing through screening, assessment, production of I.E.P., and evaluating the student's progress as services are delivered in accordance with the I.E.P.

Assessment: The collection of data about a student in answering specific questions generated to determine what the student's condition and needs are.

Evaluation: The process by which data gathered in assessment is compared with established criteria to make decisions regarding a student's educational program.

To set these definitions in a context of placement, the appraisal process is the entire set of procedures leading to and evaluating placement. Assessment occurs continuously during the appraisal process; the teacher's assessment, the screening assessment, the "comprehensive individual assessment," and finally the assessment of progress. Evaluation begins when the teacher interprets student data to decide whether or not to refer the student. Then the screening mechanism of the school (committee or individual) evaluates additional data to decide on a number of alternative courses of action, one of which is to consider special education; the multidisciplinary assessment team evaluates the data to decide whether or not there is sufficient information to answer the questions addressed; the I.E.P. committee evaluates all of the data to decide whether the student is eligible for special education placement; and, finally, personnel evaluate student progress data to decide on continued placement and/or modifications in the student's program.

#### The Appraisal Process: The Nineteen Steps

The following list of steps is intended to provide a framework for a non-biased placement system. Since it is virtually impossible to totally eliminate bias in such a system, perhaps it would be more appropriate to refer to a "least biased" placement process (Coulter and Morrow, 1978)--one that reduces bias as much as possible. For the purposes of this paper, we will use the term "non-biased assessment," since it has become a commonly used descriptor for the desired condition (Bogatz, 1976; Bogatz, 1978; Oakland, 1977; and Reschly, 1980).

The list specifies nineteen points in the appraisal process at which assessment data is (or should be) collected and used in evaluating a student's program from a non-biased perspective. These steps have been laid out in the logical sequence that would be used by a district. All of the steps represent actual practices in effect in school districts across the country. In fact, they represent practices drawn from site visits to many school systems throughout the United States and its dependent territories. While little actual research has been conducted with respect to the reduction of biased placement, there is considerable face validity to the procedures

presented. Research is badly needed to demonstrate the efficacy of such steps, and the steps are ordered to facilitate such research.

The steps are set forth in a format of specific questions that would be answered by taking each step. This format is used partly to aid the reader in understanding the context within which the steps are ordered, but also to model a process in which all data leading to evaluation for placement should be collected with some idea of what questions need to be answered by the data (National School Psychology Inservice Training Network, in press).

In every case the question preceding the step is a "yes" or "no" question, the answer to which will either end the process, refer to an earlier step, or lead on to the next step.

The description of each step includes general reference to the personnel who should carry out the step, the general procedures to take, and precautions to consider in assuring that the step is taken in a non-biased manner.

Throughout the following discussion of questions and steps, reference is made to a district tracking system. There are any number of ways to set up such a system, but it is simply a method for tracking dates and events as they occur for each student referred. In its simplest form, such a system would be a paper and pencil format maintained in each student's individual folder. In its most sophisticated form, the tracking system would be automated, using computer facilities available to the district.

Finally, a book could be written about the procedures and precautions to take at each step. This presentation is very brief and intended only to raise some of the issues involved as well as to portray the logical sequence of a process that can be implemented.

QUESTION 1 (to be answered by whoever is thinking of initiating a referral): Is there a significant problem involving this student? If the answer is "No," there is no need to proceed with Step 1. If the answer is "Yes," proceed with Step 1.

STEP 1: INITIATE REFERRAL. A teacher (or other individual, in some cases) may recognize that a student has a problem significant enough to warrant a structured look at the student and the learning conditions of the student's environment (in school and out of school) in order to find the most immediate possible solution to the problem. It should be noted that no blame or cause is implied at this point. The behavior may be perceived as a problem only by the teacher, but, since the teacher is the student's first line of defense (albeit also

the student's first line of attack), the behavior is accepted as a problem (or behavioral discrepancy), because, for someone (the teacher if not the student), a problem does exist.

The purpose of isolating this step is to cause the referral initiator (normally the teacher) to think through the motives and consequences of initiating a referral.

Normally a referral is initiated by filling out a referral form. The form suggested here would begin quite a bit earlier in the process than most of those presently in use. It begins with the teacher filling out a brief statement of the problem. For the record, if the referral is acted on by the district at a later date, it is important to note the beginning of the process by recording the initiator's name, majority or minority group membership of the student, and date of initiation.

Since this step is only taken by the teacher and involves NO ONE ELSE at this point, no record of the student's name will be made on any monitoring or tracking forms until the appropriate parent involvement is obtained at a later step. If the problem is resolved by the subsequent step (Step 2), the teacher would record (for the purposes of the district's monitoring of its appraisal process) only the fact that an individual of x racial or cultural group was considered in this manner on x date, and that the "problem" was resolved either prior to or during Step 2 on x date.

QUESTION 2: Is the problem worth taking time to pursue? If the answer is "No," record the answer on the district tracking form and terminate the process. If the answer is "Yes," proceed with Step 2.

STEP 2: COLLECT ANECDOTAL OBSERVATIONS. During this step, the teacher simply records daily a description of the student's behavior relative to the problem identified in Step 1. The number of days over which such observations should be recorded, as well as the length of such statements of behavior, is left to the teacher. However, as a general rule, observation should probably continue over at least three days during which the problem is noted. The statements should be brief but detailed enough to adequately describe the student's behavior.

Also, the teacher should note the degree to which the student's behavior is different from the average behavior of other individuals in the class. The purpose of this, of course, is to encourage the teacher to establish the uniqueness of the behavior. This may help the teacher discover possible biases by introducing the idea of objectively comparing the "problem" student with other students in the class on the offending behavior identified in Step 1. For example, it could be that the teacher's difficulty with the student does not stem from

the student's behavior, which may not in reality be different from the behavior of others in the class.

Incidentally, a "behavior" may mean an academic behavior (i.e., math or reading performance) as well as a physical or emotional behavior.

When the observational data is collected, the teacher simply attaches this anecdotal data to the form initiated in Step 1, and asks Question 3.

QUESTION 3: Does the initial observational data collected on a day to day basis suggest that a significant problem exists? If the answer is "No," record the answer on the district tracking form and terminate the process. If the answer is "Yes," proceed with Step 3.

STEP 3: CONTACT THE STUDENT'S PARENT OR GUARDIAN. At this point, the teacher should talk to the student's parent or guardian. This is not a formal meeting of any particular consequence for the district, but it is a very important step for the student involved. The visit is simply a contact (perhaps by phone, if that is most convenient) with at least one of the parents or with the student's guardian. This step is a preventive measure, but more importantly it is a means of gaining information that might provide an explanation for the problem and a way of resolving it quickly and easily.

If the parent or guardian is not available for such a visit, another person who has known the student for a significant period of time should be consulted. This person could be a relative, a neighbor, or even another member of the school faculty, such as a school social worker or a former teacher. But ALWAYS try to contact the parent or guardian first, and make every reasonable effort to do so before pursuing these alternatives.

Perhaps the greatest benefit of this visit with the parent or guardian is the reduction of future threats on the part of the parent or guardian. Where school districts have put such a parent contact into effect, the number of formal hearings involving parent complaints has been reduced to almost zero.

After the parent visit, the teacher records a summary of the meeting, including what was learned and the possible effects of the information on the student's school program. If suggestions or recommendations are made by the parent, these are recorded also. The summary notes are attached to the description of the problem and the anecdotal records, and the teacher is ready to address Question 4.

QUESTION 4: Does the information gained from the parent or guardian suggest the need for alternative classroom intervention? If the answer is "No," record the fact on the district tracking form and terminate the process. If the answer is "Yes," proceed with Step 4.

STEP 4: ALTERNATIVE CLASSROOM STRATEGIES ARE IMPLEMENTED. The teacher may have ideas of alternative strategies to assuage the problem, and the parent/guardian visit should have provided at least some information that would offer additional suggestions for ways to deal with the problem.

In this step, the teacher first records one or more (preferably two or more) strategies to be used over a specified period of time to help alleviate the problem behavior. Then the teacher implements these strategies, either concurrently or in tandem, and records daily observations (as in Step 2) of the behaviors in question to determine the degree to which the problem is relieved.

At this point especially, the teacher should have a positive attitude toward the child and an optimistic view of the outcome of the strategies, since the expectations of the teacher significantly influence the outcomes. The assumption should be made from the beginning that the alternatives tried will work. If this assumption cannot be made, either something is wrong with the strategies or the teacher needs more understanding of the student's situation. The step may sometimes be viewed as a hurdle to get past in order to get on with the referral, but the teacher should make every effort to understand the student and/or the student's family and background. This will make the strategies more meaningful and assure a greater degree of confidence in their success on the part of the teacher.

The anecdotal records kept by the teacher during the alternative strategies tried in this step should be attached to the initiated referral form, along with all preceding notes and observations. The form is then signed and dated, and Question 5 is addressed.

QUESTION 5: Do the observational data from Step 4 show that the problem behavior persists even when alternative classroom strategies are implemented? If the answer is "No," record that fact, sign and date the district tracking form, and terminate the process. If the answer is "Yes," proceed with Step 5.

STEP 5: BUILDING LEVEL (SCREENING) REFERRAL. This is equivalent to the traditional "screening" step that has been a standard part of most appraisal processes. But in this case it implies a group process where a minimal amount of data is accumulated to assist the group of building level personnel in selecting additional alternative strategies to implement if the problem persists.

At this point the parents should be notified of the referral, and the date and manner of this notification should be recorded on the district tracking form. Since no formal individual assessment will occur, parent permission is not required, but parent involvement is essential for a non-biased process. Invite the parent or guardian to participate in the screening.

The teacher initiates this step by presenting the referral form, with appropriate sections completed, to the building level committee. This committee then assigns the responsibilities for collecting screening data. Minimal data to collect at this point (before any additional action can be taken relative to the student's program) include:

- a. vision and hearing screening
- b. language dominance specification
- c. academic functioning levels (both grades and the results of standardized academic testing)
- d. socio-cultural screening
- e. speech screening
- f. health and physical screening
- g. anecdotal observation data
- h. alternatives tried and results
- i. work samples from each alternative implemented
- j. other information available or needed

All of this data is gathered and considered by the building level personnel responsible ("screening committee"); only when it is all present can Question 6 be addressed.

Great care must be taken in this step to assure that screening is comprehensive. Objective criteria should be adopted district wide, setting the limits of tolerance within which the data for a given student can be rated for some indication of "risk." Screening procedures can be every bit as biased as other assessment and decision procedures. For example, care should be taken to note that behavior which might be abnormal for the majority culture of the school is quite normal or accepted within the minority culture of a referred student.

Guard against collecting data "to support a referral to special education." This is virtually forcing a prediagnosis, which is insidious discrimination. Let the need for special education emerge naturally, and not be presupposed!

QUESTION 6: Does the screening data suggest the need for other alternative educational services? If the answer is "No," then record the fact on the district tracking form and terminate the process. If the answer is "Yes," proceed with Step 6.

**STEP 6: TRY OTHER REGULAR EDUCATION ALTERNATIVES.** The building level, or screening, committee may now draw on available regular education alternatives (bilingual education, Title I programs, remedial math classes, etc.) to determine one or more (preferably two or more) alternatives which could legitimately be tried in further attempts to resolve the problem.

In this step, a member of the building level committee records the prescribed alternatives, and the building level committee assigns someone to oversee the integration of the alternative programs smoothly into the student's overall program.

The building level committee authorizes the implementation of the prescribed regular education alternatives, and assigns the service delivery personnel to record periodic anecdotal observations of the student's behavior. Such data will be used by the building level committee to answer Question 7.

Since change of the student's location in school may be discussed and authorized at this step, the parent should be invited to attend the meeting of the building level committee. It will be necessary to obtain parental permission before changing the student's placement even though the change may be only for observation (assessment) purposes.

If the parent does not respond to the request for permission when a change of placement is in order, the school may wait for a prescribed period of time (e.g., 10 school days), then proceed with the proposed change without written consent. This procedure is used in some parts of the country, but is acceptable only if there is a school policy allowing for such action, and only if it can be shown that there is every reason to assume that the parent(s) received the notification and/or invitation to be involved. The assumption is that the lack of parental response constitutes tacit consent. This assumption is probably safe if the primary home language of the parents is known to be the same as that of the notification, and if it is known that the parents are sufficiently literate to read and understand that notification.

**QUESTION 7: Does the problem persist even when alternative regular education alternatives are provided?** If the answer is "No," then record that fact on the district tracking form and terminate the process. If the answer is "Yes," proceed with Step 7.

**STEP 7: DISTRICT LEVEL REFERRAL (TYPICALLY FOR SPECIAL EDUCATION).** At this point, resources at the building level have been exhausted as far as the personnel there can tell. Also, all possible regular education alternatives have been tried and have proved unsuccessful in resolving the problem. The building level committee now needs additional infor-

mation in order to deal with the problem.

IT IS NOT UNTIL THIS POINT that the possibility of a handicap is considered as the cause of the student's problem. All that is reasonably possible has been done by now to assure the district that the student's problem is significant enough to warrant an indepth assessment.

This step consists first of all of a consensus by the building level committee that the referral should be made. In effect, the committee says, "We have exhausted all of the options available to regular education without success." The only option remaining appears to be the possibility of a handicapping condition interfering with the student's learning program.

Finally, all of the data that has been accumulated to this point is collected, attached to the district form provided, and forwarded to the appropriate district personnel.

At this point it is necessary to obtain the permission of the parent(s) or guardian for the comprehensive assessment that will follow. Federal regulations require that such consent fulfill certain conditions; it is easy to overlook such requirements as "informed" consent. The parents should understand what is to be assessed, how, and why, as well as what will happen or not happen as a result of the assessment. It is not enough to assume that because parents sign a permission they fully understand what they are signing. The parent(s) or guardian should become a full partner in the process of assessment to follow. The insight to be gained from such an involvement with the parents is invaluable in understanding the student.

QUESTION 8: Have all steps 1 through 7 been taken and is all of the resulting data on hand? If the answer is "No," go back and fill in the missing data or perform the required steps. If the answer is "Yes," proceed to Step 8.

STEP 8: MULTIDISCIPLINARY ASSESSMENT TEAM PREPARATION. This is one of the most important steps of all, and perhaps the most often overlooked. For a comprehensive assessment to be truly appropriate it must be a team activity, utilizing the expertise of as many disciplines as necessary (at least two are required by P.L. 94-142). In no case can this step be fulfilled by a single individual of any profession!

Ideally, the principal individuals (professionals, parent, and others who have a direct bearing on the case) should meet in what is sometimes referred to as a Preassessment Conference. At this conference, all of the available data is reviewed and a list of questions

is generated. These questions, when answered, will provide an adequate base upon which to plan the student's program, given the problem behavior(s) indicated.

If the ideal isn't possible (no meeting of the team occurs), then at least a number of key personnel should review the data and assist in the generation of the list of key questions to be answered.

It is extremely important, at this point, to include sensitive members of the student's racial or cultural group in the formulation of questions. It is more important to have such a person involved at this step than in actually collecting the data to answer the questions, though that is sometimes very important also.

To be comprehensive, the assessment will address three general questions, and specific questions within these areas of concern. The three general questions are:

1. Is the student handicapped?
2. Is the student's problem caused by, or significantly complicated by, his/her handicap (if there is a handicap)?
3. Does the student need special education as the result of a problem which is due to his/her handicap?

If the answer to either of the first two questions is "No," the subsequent questions need not be addressed when special education is reserved for the handicapped. Ideally, however, all three questions could be addressed in an educational plan produced for each student whether he/she is found to be eligible for special education or not.

Where special education funds are restricted to educational problems of the handicapped, it is necessary to establish a student's eligibility in terms of one or more handicapping conditions. If a handicapping condition cannot be verified, then the student is not eligible for special education services regardless of how severe the "problem" might be.

Also, even when a student has been found to be handicapped, the problem may not be related to the handicap. For example, a student who is orthopedically handicapped and confined to a wheelchair might be having a reading problem that would exist even without the orthopedic handicap. In such a case, the student would not be eligible for special education services unless another handicapping condition is found to be causing the problem (e.g., learning disability). Where members of ethnic minority groups are concerned, such questions become critical. Minority group students are all too often declared

eligible for special education on the basis of diagnosis of such conditions as mental retardation, learning disabilities, and emotional disturbance, when a sensitive assessment of their status would reveal that the so called "problem" behaviors are due primarily to racial, ethnic, linguistic, and/or related factors such as poverty, lack of opportunity to attend school, etc.

Therefore it is imperative to determine whether "symptoms" indicating a handicap may actually be normal characteristics for the culture of the student involved. The following questions should be asked:

1. What is the language proficiency of the student in his native language as well as in English?
2. Is there a difference in expressive language as opposed to receptive language between the proficiencies in these two languages?
3. Does the student demonstrate a lack of adaptive behavior in the home and community environment as he/she does in the school environment?

The professionals (or others) best suited to answer these questions should be listed. For example, "Is the student able to cope emotionally with a classroom setting?" might best be answered by a psychologist or psychiatrist, preferably a school psychologist. Or, "Since the student exhibits bizarre behaviors without apparent relationships to known stimulus, might there be a neurological dysfunction?" would perhaps be answered best by a neurologist, preferably a pediatric neurologist.

A multidisciplinary team formulates an assessment plan, consisting of the questions to be answered and names of individuals to perform various aspects of the assessment. This plan is attached to all of the data accumulated and Questions 9 through 11 are addressed in order.

QUESTION 9: Have all of the necessary questions been generated to provide an adequate basis for planning the student's educational program? If the answer is "No," then generate the additional needed questions. If the answer is "Yes," proceed with Step 9.

STEP 9: MULTIDISCIPLINARY ASSESSMENT OF HANDICAP. This is the step that has traditionally been accomplished by the "standard battery" of tests and little more. Assessment for the purposes of developing an educational program will be conducted in Step 11. Step 9 includes

only that assessment which answers questions relating to the nature and degree of the handicapping condition that establishes the student's eligibility to receive services. It is imperative that both test-based assessment and nontest based assessment be made to answer the assessment questions generated in Step 8. Since few if any tests have been validated for the purposes of determining the most common handicapping conditions, it is necessary to acknowledge the primary role that subjective professional judgment plays in diagnosis. This is especially true for conditions defined more or less by society rather than by the presence or absence of any physically observable symptoms (i.e., mental retardation, learning disability, and emotional disturbance).

There can be no "standard battery" type assessment, since the questions generated at Step 8 will be different for each student.

Step 9 then consists of nothing more than answering the list of questions generated in Step 8. If other questions are raised in the process, answers to these questions become a part (or subset) of the questions already listed, and they are answered also as a function of the comprehensive nature of the Multidisciplinary Assessment in Steps 9, 10, and 11.

The principles of professional practice and the appropriate considerations regarding the use of standard and nonstandard assessment techniques should always apply. It should be kept in mind, for example, that P.L. 94-142 disallows any test or procedure that has not been validated for the purpose for which it is being used. For example, if an instrument is being used to assess a student to determine whether he or she is "mentally retarded" or "emotionally disturbed," then that instrument must have been validated for that purpose. It should be noted that very few of the widely used instruments have been validated for the purpose of determining whether or not a student is handicapped or needs services as a handicapped person.

The report of the assessment accomplished in Step 9 should include the questions raised in this area during Step 8, the names and credentials of the individuals assigned to answer the questions, the techniques and methods used, the findings in terms of the criteria for eligibility as a handicapped person, and any professional recommendations appropriate because of the handicapping condition, as well as additional questions to be raised or answered before completing either this step or the next two.

The report is then attached to the material already accumulated for the case, and Question 10 is addressed.

QUESTION 10: After the assessment performed in Step 9, is there sufficient evidence that the student is handicapped? If the answer is "No," then either additional questions must be raised and addressed by reiterating Steps 8 and 9, or the student must be assumed NOT HANDICAPPED, referred to Step 12, and recommended as ineligible for further consideration on a track leading toward special education for the handicapped. It is possible, of course, that the comprehensive assessment of Step 9 discovered heretofore unknown facts explaining the problem and allowing for its solution with no further intervention, or with additional regular education alternatives. But if the answer to Question 10 is "Yes," proceed to Step 10.

STEP 10: MULTIDISCIPLINARY ASSESSMENT FOR EDUCATIONAL IMPLICATIONS. This step has traditionally been overlooked. Basically, it is intended to collect data about the student's educational performance as it relates to his/her peers and in terms of the objectives for achievement for the district. For example, if it is normal in a given district for a sixth grader to be achieving on the fourth grade level in math, then a student who is achieving at that level, although he/she might be significantly behind a national sample, is in fact doing as well as could be expected in that district, for whatever reasons. Such a level of achievement could not then be used as evidence that a discrepant level of achievement exists between the child's mental ability and his academic achievement for the purpose of diagnosing a learning disability. Given the curriculum and educational opportunity in that district, the student is doing as well as his peers who have similar abilities. It is also necessary to consider the educational history of a student. It may be that the student is placed in the sixth grade on the basis of chronological age but has only been in school for three years of her life and is doing remarkably well to be achieving at the fourth grade level given the amount of exposure to formal schooling. That is, care should be taken not to assume that a student is suffering from some handicapping condition (most notably a learning disability or mental retardation) simply because of low scores on educational performance tests.

In this step the educational conditions surrounding the student, both past and present, are taken into account. Only by considering such educational conditions can we determine whether or not an existing handicapping condition is causing or at least supporting low levels of educational performance. The report of the assessment accomplished in Step 10 should include the list of questions raised in Step 8, the names and credentials of the individuals who have been assigned to obtain the answers, the level of educational performance of the student as it relates to the level of performance of peers on the same dimension (behavior, subject, etc.), and a statement of the degree to which the handicapping conditions found in Step 9 are affecting the student's level of performance.

It should be noted that only the I.E.P. committee can apply a specific handicapping label to a student, but the assessment performed in Step 9 should have found the presence or absence of handicapping conditions, without reference to a label, which could be significantly influencing the student's behavior.

The report is attached to all of the previously collected materials, and Question 11 is addressed.

QUESTION 11: Does the assessment data obtained in Step 10 supply sufficient evidence that the student's problem is educationally related to and supported by a handicapping condition? If the answer is "No," then, by most standards, the student will not be eligible for special educational services which are reserved for the handicapped only; this fact is recorded, and the case is referred to Step 12 (bypassing Step 11). If the answer is "Yes," proceed to Step 11.

STEP 11: MULTIDISCIPLINARY ASSESSMENT FOR EDUCATIONAL PROGRAMING.

There should be nothing done in this step that relates to what the student's handicapping condition is or might be. That has all been handled in Steps 9 (for all handicapping conditions except LD) and 10 (for LD). In this step, the student should be assessed only in terms of where he/she is functioning with reference to the regular local educational program. The purpose of this phase of the assessment is to determine exactly what curricular modifications need to be made in order for the child to function in the regular program. Measurements of the child's educational performance and behavior against the demands of the local curriculum will provide valuable information for later decisions regarding placement in the least restrictive environment.

In the past, the purpose of this step has been poorly understood. Traditionally, the "standard battery" used to establish eligibility has also been used as the basis for educational programing. In most cases, using such a standard battery is grossly inappropriate; the instruments have not been validated in most cases for purposes of educational planning. The classic example, perhaps, is the use of the Wechsler Intelligence Test for Children as a basis for making eligibility decisions and for designing curriculum strategies.

Using an instrument for purposes other than what it was developed for and/or using it with populations other than those represented in the norm group can easily result in unfounded and biased conclusions.

Criterion referenced assessment materials, if congruent with the criteria of the actual school curriculum can reveal exactly on what level a child is performing and can provide a valid basis for

individual educational program planning. These tests, on the other hand, are not appropriate for diagnosing disabilities or determining eligibility for special education. Throughout Steps 9, 10, and 11, it is very important that the two functions of eligibility and programming be cleanly separated and that assessment techniques be used which are appropriate for each of these two functions.

Often, a student who is found eligible for special education is simply placed into THE special education class when, in fact, the program there is no more individualized than was the regular education program. Such a practice amounts to little more than a change of placement, the desire for which may have been the covert reason for the referral in the first place. By carefully following the nineteen steps these kinds of biases should be discovered early in the referral process.

In some districts there is even a standard curriculum for all students classified as "mentally retarded," and when students are declared to be mentally retarded, they are placed into the MR room where they are expected to pick up in the program where everyone else is being taught. In effect, such a practice provides nothing more than a remedial program for students who aren't achieving up to the level of those whom the district has decided are "normal." In fact, the program isn't even a good remedial program because no attempt is made to determine the specific needs of each student nor to tailor a program especially for that student. "Mental retardation" is an arbitrary category with legal requirements that vary considerably from state to state and even from district to district. Students classified as mentally retarded vary as much as do "normal" children. There is no rationale for such a thing as an MR curriculum.

Assessment information gathered in Step 11 should address the questions related to specific levels of educational functioning as measured against the local curriculum posed in Step 8. Suggested remedial strategies that are likely to work should also be included along with the list of questions, personnel, techniques, findings, and recommendations described for Steps 9 and 10.

The report is attached to all of the material accumulated to date and is submitted to scrutiny under Question 12.

QUESTION 12: Have all of the assessment questions been answered to the satisfaction of the Multidisciplinary Assessment Team? If the answer is "No," either return to Step 8 for additional information, assuming more is required, or record the fact and terminate the process. If the answer is "Yes," proceed with Step 12.

STEP 12: PREPARE AN INTEGRATED REPORT. At this point the assessment data (including all of the data collected in Steps 1 through 11) must be integrated into a question and answer format readily understandable by every person on the I.E.P. committee, including the parent.

The comprehensive assessment report should present the case by relating the student's problem to the handicapping conditions, if any were found, and by discussing the influences, if applicable, of minority, ethnic, linguistic or cultural group membership. The report will serve as the basis for the discussion of the case in the I.E.P. meeting.

When such a report is ready, address Question 13.

QUESTION 13: Is the Assessment Report jargon free and understandable in that it communicates in simple, straightforward terms to all who will be present at the I.E.P. meeting? If the answer is "No," return to Step 12 for the necessary revisions in the report. If the answer is "Yes," proceed with Step 13.

STEP 13: SCHEDULE THE I.E.P. MEETING AND FURNISH THE PARENTS WITH A COPY OF THE ASSESSMENT REPORT. The I.E.P. committee meeting is scheduled in accordance with all required due-process considerations, including, in particular, notifying the parent that the meeting has been scheduled. It goes without saying that, if possible, the meeting should be scheduled at a time the parent is most likely to attend.

As in the preassessment conference (Step 8), it is very important that there be present at this meeting individuals who are sensitive to and thoroughly understand the racial, cultural, or ethnic background of the student. There are many state and federal regulations relating to the composition of the I.E.P. committee and to its role and function, so those issues won't be dealt with here, except to say that the makeup of the committee can, in large part, determine whether or not decisions will be biased. Expediency should not be the rule where a student's program is concerned. Time should be taken to convene the best committee possible at the most opportune time, and great care should be taken to assure that the deliberations of the committee are thorough and that they take into account all of the areas where biased placement could occur. To assist in this, Steps 14 through 17 present separate questions and procedures for the committee to take in assuring a nonbiased appraisal process.

QUESTION 14: Does the student appear to need special education? If the answer is "No," after all of the data have been gathered and are

on hand, then there is probably no need to convene a full I.E.P. committee but simply to state that the student is not eligible. Instead, the case should be returned to the building level committee (Step 6) for additional consideration in regular education. If the answer is "Yes," proceed with Step 14.

**STEP 14: SPECIAL EDUCATION ELIGIBILITY DECISION.** This step and the next three (Steps 15 through 17) are taken by the I.E.P. committee in session. They are separated into four distinct steps to emphasize the importance of each one. They are also, in effect, ordered so that each succeeding step can be taken only upon the completion of the previous one.

First, the I.E.P. committee considers the integrated assessment report, comparing the findings to eligibility criteria for determining the student's eligibility as a handicapped student. This is an important step; at this point many biased labeling decisions are made; if not actually made here, they may be condoned or made official. Therefore, it is of utmost importance that the committee consider all of the issues surrounding the decision making process as it relates to culturally diverse students. It is often assumed that it is in the assessment that bias has the greatest chance of influencing the labeling of a student, but research has shown that the administrative decisions made at I.E.P. committee meetings are not significantly influenced by assessment data (Morrow, et al., 1976; Tucker, 1977). Other factors, including the forcefulness of personalities in the group, administrative position, and professional qualifications of various members are more influential. Great care should be taken to assure that every significant cultural factor is considered before assuming that test data support eligibility.

After the committee has thoroughly discussed the findings of the comprehensive assessment performed in Step 9; compared the results with eligibility criteria for various handicapping conditions; and considered all the racial and cultural factors that may have influenced the student's performance during assessment, the committee is ready to address the special education needs of the student. Here, again, the data in the integrated report are considered very carefully, especially as they give evidence of a relationship between the handicap (if there is one) and the educational need that is demonstrated by the assessment in Step 10.

A student is not eligible for special services simply because he or she happens to be handicapped. There are many handicapped students who do not need (or want) special education intervention. Special education for the handicapped has been provided for those problems in education that are CAUSED BY THE HANDICAPS. A student who is emotionally disturbed and is failing in school because he cannot cope

with the structure of the regular classroom NEEDS special assistance in order to progress in school at a rate commensurate with his ability.

All deliberations regarding the eligibility decision should be carefully noted in detailed minutes of the I.E.P. committee meeting. This is necessary to establish that the committee did, in fact, consider all of the pertinent points relative to nonbiased appraisal.

Once it has thoroughly discussed the findings of the comprehensive assessment performed in Step 10 and compared the results with the ability levels that can be judged from the results of the assessment performed in Step 9, the committee is ready to address Question 15.

QUESTION 15: Is the student a member of a minority group or other unique population? If the answer is "No," record the fact in the minutes of the I.E.P. committee, and proceed directly to Question 16. If the answer is "Yes," the nature of the need as it relates to the handicap is recorded in the minutes and Step 15 is addressed.

STEP 15: ETHNIC AND CULTURAL CONSIDERATIONS. The final consideration that must be made when assuring nonbiased appraisal and placement of minority group students relates to specific cultural factors. Questions must be answered regarding the degree to which behaviors that appear to be related to handicapping conditions can actually be accounted for by cultural, ethnic, or linguistic factors. Whenever a student is a member of a population that is unique--e.g., different race, different background, different socio-economic status--individuals sensitive to the norms of that population should always be included (if possible) in the deliberations, both during the assessment phase (Steps 8 through 12) and in the I.E.P. committee phase (Steps 13 through 17). When this is not done, the chance is much greater that values and norms of the majority group will inadvertently be imposed as criteria in the decision making process. It is natural for us to look at the world through our own experience and values. It is only when we bring in individuals with different viewpoints that we are able to break through our biases, first to realize them and then to overcome them to at least some degree.

The I.E.P. committee should consider these factors, especially when dealing with the mildly handicapping conditions. P.L. 94-142 regulations require that the I.E.P. committee affirm that the signs used to indicate the presence of a handicapping condition cannot be completely accounted for by the student's difference in language, difference in culture, and/or lack of educational opportunity. If the behaviors indicating the handicap can be completely accounted for by any one of these factors, the committee cannot declare the student handicapped or place him/her in special education.

When the I.E.P. committee has carefully considered all elements necessary to verify the handicap indicated in Step 13 in terms of the student's language, culture, and educational history, Question 16 may be addressed.

QUESTION 16: Are eligibility decisions free of cultural bias? If the answer is "No," then return to the appropriate step and take whatever corrective measures are needed, working back to this question again. If the answer is "Yes," the committee is ready to move to Step 16.

STEP 16: I.E.P. PRODUCED AND APPROVED. At this step, the assessment data collected and integrated into the report to the I.E.P. committee are used as the basis for educational planning. All goals and objectives should be tied directly to data indicating a discrepancy, strengths that can be used, and weaknesses that need remediation. For example, if the problem behaviors identified throughout the assessment of a given student indicate that he/she has a math problem, then the I.E.P. should not be produced to remediate reading.

There is abundant literature describing how the I.E.P. is to be produced, including guidelines on the formulation of long range goals, short term objectives, and strategies for implementation, as well as timelines, location of services, personnel who will deliver the services and parental involvement. This paper is dealing rather with the general considerations that must be made in order to assure that the procedures are carried out in a nonbiased manner.

It is important to remember that the instructional and related services received by a handicapped student should relate only to the need of that student as caused by the student's handicap. In no way should the services be provided to remediate conditions caused by a student's previous lack of opportunity to learn. All of those conditions can be helped, in part by other programs, many of which are federally funded for the purpose; however, such services are outside the realm of education for the handicapped unless it is necessary to coordinate programs and responsibilities. It might be assumed that this consideration is irrelevant here, since the question was addressed in Step 14, but the subject may be passed over lightly at one step only to be picked up more thoroughly at the next.

The only problems for which an I.E.P. is required are those directly attributable to the student's legitimate handicap.

Where bias enters in this step is often in the equivalence in criteria for mastery of short term objectives and long range goals. In creating an educational program for a student, there are always

assumptions about the student's potential. The ultimate expectations for the student's potential. The ultimate expectations for the student, such as whether or not he is expected to finish high school and receive a regular diploma or a special education diploma and whether or not he is expected to live independently as an adult or need a sheltered living environment (e.g., half-way house) or institutional support all his life, can easily bias decisions and recommendations made at this step. Such assumptions should be brought out in the I.E.P. committee meeting and discussed freely and openly. Biases need to be realized and accepted as such, if there is reason to suspect that less than optimum expectations are present on the part of committee members. The details of these deliberations should be recorded in the minutes of the meeting.

The minutes of the committee meeting, and the specific objectives and goals of the I.E.P., should specify optimal expectations assumed for each student considered. This information is recorded on the district tracking form, and the specifics of the I.E.P. are generated and recorded. When such considerations have been dealt with, the committee is ready to proceed with Question 17.

QUESTION 17: Have all the necessary precautions been taken to insure that the student's educational needs can best be met by the provision of special education services? If the answer is "No," go back to whatever step has not been adequately addressed and review the data or collect data so as to be absolutely sure that the student's best interests will be in mind in the planning that is taking place. If the answer is "Yes," proceed to Step 17.

STEP 17: PLACEMENT FOR INSTRUCTIONAL AND/OR RELATED SERVICES IN THE LEAST RESTRICTIVE ENVIRONMENT. At this point, it is important to record the location within which the specified I.E.P. services will be provided. Since one of the ultimate results of the appraisal process is to place a student in a class or in a learning environment conducive to the implementation of his/her I.E.P., that location must be viewed as one of the primary validations of a non-biased appraisal process (i.e., a nonbiased placement process). The law also required, however, that students be placed in the least restrictive environment. If several placements emerge as equally conducive to learning, the least restrictive of these must be selected.

At this step, then, the student's actual program placement is indicated on the appropriate forms within whatever category he/she fits best.

The committee must address the problem of availability of facilities, resources, and personnel to carry out the services ordered by the I.E.P. The law does not allow for the nonimplementation of the I.E.P. simply because of a shortage of resources. While this is difficult to understand in areas with a perennial shortage of resources, especially personnel, it is how the law has been interpreted. So the question is, "What facilities, equipment, personnel, etc., are needed?" without regard to whether or not such are available. It would be completely unrealistic, however, to assume that this will change the existing conditions which limit the resources.

For example, the quality of the service to be delivered may be affected by the quality of the available personnel. However, the quality of the special program is not inferior to the program available to students in the regular education program of the school district, it will probably be acceptable.

It is here, however, that considerations of nonbiased appraisal come into play. In no case should a student be assigned to a given facility, a certain teacher, or a specific program simply because that is the only place, person, or program available. Consider, for example, a student who is referred initially for all of the right reasons, when it is known from the beginning that there is only one placement available to all special education students--the "special education class." The fact that there has only been one placement alternative in the past should never be used to bias either the assessment or placement decision in the present or in the future.

While it is often supposed that biased placement is not a factor in personnel assignment, such has not been the case in many instances. To insure against biased personnel placement, data about which personnel are assigned to each student should be collected at this step. This is a difficult measurement concept to account for, but it can be done by simply listing all of the assigned personnel (as they become assigned for the first time), and then recording each case as a tally mark in the appropriate column by racial group, cultural group, etc., in the same way that tally marks are made for the least restrictive environment alternatives.

The committee considers each student in terms of the deliberations preceding this step and determines the most appropriate placement. The decision is made to implement that placement, the personnel are assigned, and the resources are allocated to carry out the program as specified by the I.E.P. These deliberations are all recorded in the minutes of the I.E.P. committee meeting, with the decisions reached. When this has been done, Question 18 can be addressed.

QUESTION 18: Have the parents approved the student's placement and the program as specified in the I.E.P.? If the answer is "No," go back to whatever step is necessary to take care of the problem causing a lack of communication or cooperation. If the answer is "Yes," proceed with Step 18.

STEP 18: PROVIDE INSTRUCTIONAL AND/OR RELATED SERVICES. At this step, data is consistently collected regarding student progress (or the lack thereof) in terms of the objectives state in the I.E.P.

Bias at this stage might lie in the expectations that the instructional and/or related services providers have relative to the student. Consequently, some system of comparing the achievement of objectives across cultural groups would be helpful, and the data could be collected in terms of several such categories, e.g., more than 75% mastery within time projected, 50% to 75% mastery within time projected, 25% to 49% mastery within time projected, less than 25% mastery within time projected. Then each case could be periodically checked within one of those four categories to get an idea of whether or not a disproportionate number of some cultural or racial group was not achieving mastery.

A very important consideration at this point is that the objectives and criteria for mastery could be biased in favor of one or more cultural groups; if that were the case, an equivalent mastery might not be an indication of an unbiased process. The equivalence of criteria for mastery is a consideration that must be dealt with in terms of bias at the point of I.E.P. production in Step 16.

Once the student has been placed in the setting specific by the I.E.P. committee and the necessary data specified above have been recorded on the district forms, Question 19 may be addressed.

QUESTION 19: Can we tell if the student's progress is satisfactory? If the answer is "No," go back to Step 16, the production of the I.E.P, since all of the goals and objectives should be measurable over time. If the answer is "Yes," proceed with Step 19.

STEP 19: EVALUATE STUDENT PROGRESS. This step is the formal accumulation of data according to a specified district wide plan (e.g., every 90 days, annually, etc.). For each student, this plan might vary, and the specific times when such reports were due might also vary. But there should be reports AT LEAST ANNUALLY, since P.L. 94-142 requires at least an annual review of the I.E.P. The data should show whether or not the student is progressing as expected.

This step also includes periodic re-evaluation of the student's handicapping condition (at least every three years) to determine if

the student is still handicapped and otherwise eligible for special education.

In terms of nonbiased appraisal, the idea here is to look at the length of time that a student stays in a given type of location as a function of progress made in his cultural group. For example, there could be outcome units of measure such as the following: moved up one or more steps on the LRE ladder within the reporting period; remained on the same step in the LRE ladder within the reporting period; dismissed from special education during the reporting period, etc.

The data from such assessment is used by the school personnel to evaluate the student's progress, his/her program and placement in terms of whether or not progress, program, and/or placement have been affected by the student's membership in a given racial, cultural, or other unique group.

Data collected in this step are recorded on the district tracking form and maintained also for use in continued or subsequent deliberations of the I.E.P. committee.

#### SUMMARY

It is readily acknowledged that any system can be abused. The nineteen steps proposed in this paper simply delineate specific procedures that, when taken seriously, will assist a school district in maintaining a nonbiased appraisal process with reference to special education placement. The system implies the use of many different individuals, with widely divergent social and racial backgrounds, rather than the use of one or two case managers who take every referral through from beginning to end, making all decisions, and getting all of the sign offs that are required to meet the letter of the law.

The paper has presented general procedures and concerns, for the most part. The specifics for each step would require extensive description; there is an extensive body of literature on the subject.

The best way for a district to use the nineteen steps concept would be to gather a select group of personnel who have responsibilities in the area of pupil appraisal and go over the steps one by one, noting the differences between the system now in place and the one suggested. Whether or not you implement the entire system as proposed by the nineteen steps, the process of going through the system will serve as a very helpful review of your district's pupil appraisal program.

The nineteen steps can be implemented without a district wide tracking system, but there is really no way of monitoring the degree to which the procedures are actually being carried out case by case unless such a tracking system is in place. In the event of a program audit by either the state department of education or by the Office of Civil Rights, data from these steps would be invaluable as backup for what is being done, or for supporting changes that have been made to correct biased situations that were found as a result. At a recent meeting of lawyers and special educators it was made forcefully clear that the best defense is a good offense. If you have a system which collects monitoring data in advance, even if the data don't present your program in the light you would like, you will be in a much better position to defend your program.

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